

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WENDY PERRY,  
Plaintiff

v.

No: 137 - 2005 ERIE

FRONTIER PHARMACY, INC. and  
THOMAS TOALE,  
Defendants

**TRIAL BY JURY DEMANDED**

**REPLY IN OPPOSITION TO DEFENDANT'S MOTION FOR DISMISSAL PURSUANT  
TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6) AND 12(e)**

AND NOW, comes the Plaintiff, Wendy Perry ("Perry"), by and through her attorneys, Quinn Buseck Leemhuis Toohey & Kroto, Inc., and files the within Reply to Motion for Dismissal filed by the Defendants, Frontier Pharmacy, Inc. ("Frontier") and Thomas Toale ("Toale"), of which the following is a statement:

1. Admitted.
2. Admitted in part. The allegations in paragraph 2 are statements regarding a pleading document which speaks for itself. All other statements of Defendants are denied.
3. Admitted in part. The allegations in paragraph 3 are statements regarding a pleading document which speaks for itself. All other statements of Defendant's are denied.
4. Admitted in part. The allegations in paragraph 4 are statements regarding a pleading document which speaks for itself. All other statements of Defendant's are denied.

5. Admitted in part. The allegations in paragraph 5 are statements regarding a pleading document which speaks for itself. All other statements of Defendant's are denied.

6. Admitted in part. The allegations in paragraph 6 are statements regarding a pleading document which speaks for itself. All other statements of Defendant's are denied.

**RESPONSE TO MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

7. Denied. Specifically, the Plaintiff denies that it has brought a Title VII action against any individual Defendant and further, individual liability is permitted under the Pennsylvania Human Relation Act. Defendants have misstated the law as set forth at 43 P.S. §955(e), which expressly provides for individual liability.

WHEREFORE, the Plaintiff requests this honorable court deny Defendants' motions under rule 12(b)(6) and 12(e).

**RESPONSE TO MOTION FOR MORE DEFINITE STATEMENT**

8. Denied. The Plaintiff's complaint meets the notice pleading requirement established by the Federal Rules of Civil Procedure.

9. Admitted in part. The allegations in paragraph 9 are statements regarding a pleading document which speaks for itself. All other statements of Defendant's are denied.

10. Denied. The allegations in paragraph 10 are statement regarding a pleading document which speaks for itself. In further answer thereto the Plaintiff has met the burden established by the Federal Rules of Civil Procedure for notice pleadings.

WHEREFORE, the Plaintiff requests this honorable court deny Defendants' motions under rule 12(b)(6) and 12(e).

Respectfully submitted,

QUINN BUSECK LEEMHUIS TOOHEY  
& KROTO, INC.

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